IN THE HIGH COURT OF JUDIATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1958 OF 2003

Indubai Vinayakrao Thorat & Ors. .. Petitioners
Vs.
Dhanaji Ramrao Thorat & Ors. .. Respondents.

Mr.Umesh Mankapure for the petitioners.
Mr.Pratap Patil for respondent nos.1 and 2.

CORAM : D.B.BHOSALE, J.

DATED : 18TH FEBRUARY, 2005

P.C.:

. Heard Mr.Mankapure, learned counsel for the petitioners and Mr.Patil, learned counsel for respondent nos.1 and 2.

2. Mr.Mankapure, learned counsel for the petitioners, at the outset submits that he has instructions not to press this writ petition and seeks liberty to file independent suit for the reliefs prayed for in the counter claim which came to be rejected by the impugned orders. He further submits that the petitioners will file substantive suit within eight weeks from today. Mr.Patil, learned counsel for respondent nos.1 and 2 has no objection for granting such liberty. Both the

learned counsel appearing for the parties further pray for directions to the trial court to club a fresh suit that will be filed by the petitioners with Regular Civil Suit No.359 of 1989 and decide them together. After having considered the impugned orders and the submissions made by the learned counsel for the parties I am satisfied that the following order shall meet the ends of justice:

(a) Liberty to the petitioners to file independent suit as prayed for within eight weeks from today. Since the parties and subject matter is one and the same the trial Court shall decide both the suits together.

(b) Liberty to file fresh suit granted by this order shall not be construed to mean that defects or objection/s of the parties, if any, in the said suit are waived. The trial Court shall deal with any such objection/s, if raised, on merits in accordance with law. The hearing of both the suits is expedited.

. The writ petition is, accordingly, disposed of as not pressed.

(D.B.Bhosale, J.)